

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

27151-27225

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 4, 1937]

27151. Adulteration and misbranding of butter. U. S. v. Davis-Cleaver Produce Co. Plea of guilty. Fine, \$350 and costs. (F. & D. no. 33900. Sample nos. 58201-A, 58202-A, 58490-A, 58492-A, 58493-A, 58506-A, 58507-A, 58508-A, 59248-A, 66049-A, 66125-A, 13505-B.)

This case involved interstate shipments of butter that was deficient in milk fat, and a portion of which was short in weight.

On March 27, 1935, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Davis-Cleaver Produce Co., a corporation of Quincy, Ill., alleging shipment by said company in violation of the Food and Drugs Act between the dates of May 23, 1933, and August 22, 1934, from the State of Illinois into the States of Maine, Massachusetts, Michigan, Missouri, and New York of quantities of butter that was adulterated and a portion of which was misbranded. Certain lots were labeled variously: "Country Roll * * * I G A Brand Butter * * * Packed for Independent Grocers Alliance Distributing Co. Chicago, Illinois"; "Red Oak Brand Butter"; "Fancy Roll Butter, Ferndale Country Roll * * * Packed expressly for Charles Abrams & Sons, Long Island City"; "Ferndale Creamery Butter manufactured by Davis-Cleaver Produce Co., Quincy, Illinois * * * One Pound net weight."

The article was alleged to be adulterated in that a product that contained less than 80 percent by weight of milk fat had been substituted for butter, a product which must contain not less than 80 percent by weight of milk fat as defined by the act of Congress of March 4, 1923, which the article purported to be.

Portions of the article were alleged to be misbranded in that the statement "butter", borne on the packages, was false and misleading since it represented that the article was butter as defined by law; whereas it was a product deficient in milk fat in that it contained less than 80 percent by weight of milk fat; and in that it was labeled as aforesaid so as to deceive and mislead the purchaser. One lot was alleged to be misbranded further in that the statement "One Pound Net Weight", borne on the carton, was false and misleading and was borne on said carton so as to deceive and mislead the purchaser since the carton contained less than 1 pound; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On April 9, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$350 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

27152. Misbranding of olive oil. U. S. v. John Montecalvo. Plea of guilty. Fine, \$50. (F. & D. no. 35882. Sample no. 25869-B.)

This product was represented to be imported olive oil. Examination showed that it consisted chiefly, if not wholly, of domestic cottonseed oil.

On August 11, 1936, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the